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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/297,406	04/29/1999	CHRISTOPH HEILAND	KKF1P005	9723

7590

04/24/2002

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EXAMINER

BRITTAIN, JAMES R

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 04/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant N .

09/297,406

Applicant(s)

HEILAND, CHRISTOPH

Examiner

James R Brittain

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 3, 6, 7, 11, 13, 14, 16-18, 20, 21, 24-26, 28, 29, 31 and 32 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 10 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8, 12, 15, 19, 27 and 30 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Species III in Paper No. 5 is acknowledged.

Claims 3, 6, 7, 11, 13, 14, 16-18, 20, 21, 24-26, 28, 29, 31 and 32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

Claim Rejections - 35 USC § 112

Claims 12 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12 and 30 are not written in a form with active method steps. Since the stamping step is not an active method step, the scope is unclear.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Visser (US 5,625,931) in view of D'Eugenio (US 3,832,757).

Visser '931 (figure 1) teaches clamp structure with apertures 38 in the handles. There are flexible bands which bias the jaws together in the closed configuration (col. 2, lines 45-48). The difference is that it is not stated that extrusion is the method by which the clasp with its hollow portions is made. However, D'Eugenio (figures 1, 2) teaches that it is well known to use the extrusion process which can form apertures in the handles of the clamp so as to quickly form the clamps in an economical manner (col. 2, lines 29-31). It would have been obvious to use the extrusion process to form the apertures in the handles and other areas of the clamp of Visser '931 in view of D'Eugenio suggesting that it is known that extrusion can form such a configuration, apertures in the clamp structure, and rapidly manufacture the clamps. As to claim 8, the break points are clearly shown in the extrusion process of D'Eugenio as connecting the clamping elements together. It would have been obvious to use such connection points to facilitate separation of the clamping devices.

Claims 2, 15, 19 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Visser (US 5,625,931) and D'Eugenio (US 3,832,757) as applied to claim 1 above, and further in view of Stalder (US 3,733,656) or Rose (US 2,931,086).

Further modification of the clamp of Visser '931 such that the gripping jaws also include hollow profiles as shown by D'Eugenio in a unitary clamp would have been obvious in view of Stalder in which there is a space between the gripping faces B, G and the supporting backs C, F as shown in figures 2 and 3 of a unitary clamp or in view of Rose (figure 1) which shows matching recess in the gripping jaws 26 of a unitary clamp. The gripping, clamping and/or connection points are clearly shown by

D'Eugenio. It would have been obvious to use such connection points to facilitate separation of the clamping devices. As to claim 15, the metal spring 58 can be added to the device of Visser to act as a spring device.

Response to Arguments

Applicant's arguments filed January 23, 2002 have been fully considered but they are not persuasive. Applicant asserts that it is clear that the clamp of Visser does not use hollow extrusions to produce the clamp members (page 4, lines 5-6), there is nothing in the Visser patent to suggest that it would benefit from hollow extrusions (page 4, lines 19-21) and that it would be difficult to manufacture the deformation restoring force of the concentric rings 46, 48, 50 with the D'Eugenio method (page 4, lines 21-22). Visser is silent as to the manufacturing process and D'Eugenio is utilized to show that this process is common for the manufacture of clamps so as to provide the hollow portions. The claims at issue are article claims and the reference to D'Eugenio shows that hollow clamp sections are well known as being made by extrusion. It provides for automated production that helps to reduce the cost of the finished product (col. 2, lines 29-31). These desirable characteristics of reduced cost are applicable to the device of Visser. Therefore, the use of extrusion to provide for the openings in the clamp of Visser would have been obvious. Applicant asserts that it would have been difficult to manufacture the concentric rings of Visser with the D'Eugenio method. However, applicant's assertion of difficulty of production does not mean that the openings defining the concentric rings 46, 48, 50 cannot be made by extrusion. D'Eugenio clearly shows making hollows in a clamp structure and that it is a desirable method of doing so in

Art Unit: 3677

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'J. R. Brittain', with a stylized flourish at the end.

James R Brittain
Primary Examiner
Art Unit 3677

JRB
April 22, 2002



Creation date: 05-05-2004
Indexing Officer: JSCHIAVONE - JONATHAN SCHIAVONE
Team: OIPEBackFileIndexing
Dossier: 09297406

Legal Date: 06-25-2002

No.	Doccode	Number of pages
1	C.AD	1

Total number of pages: 1

Remarks:

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